

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code section 427.1(40), the Department of Revenue hereby amends Chapter 80, “Property Tax Credits and Exemptions,” Iowa Administrative Code.

These amendments update the Department’s rule on the property tax exemption for broadband infrastructure to address issues raised by the rules adopted by the Office of the Chief Information Officer addressing the same subject matter (see **ARC 2782C** published herein). First, the Department determined that the definition of “date of completion” originally adopted by the Department is too narrow. The amended definition will better reflect the letter of the law, which requires only that broadband infrastructure offer or facilitate broadband service at the requisite speeds in a targeted service area, rather than that the entire area receive the broadband service at the requisite speeds in order for a certified project to be complete. Additionally, upon review with the Iowa Code Editor, the Department determined that the effective date of the law was actually July 1, 2015, rather than June 22, 2015, the date on which the Governor signed the bill. Consequently, the definition of “targeted service area” is amended to reflect the correct effective date. Finally, the amendments to subrule 80.31(5) accommodate applications that involve targeted service areas that are under appeal pursuant to the rules promulgated by the Office of the Chief Information Officer, including making the approval of those applications contingent on the outcome of the appeal.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2703C** on August 31, 2016. No public hearing was held on these amendments. No public comments were received on these amendments. These amendments are identical to those published under Notice.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department of Revenue adopted these amendments on October 5, 2016.

After analysis and review of this rule making, the Department finds that no negative impact on jobs exists.

These amendments are intended to implement Iowa Code section 427.1.

These amendments will become effective November 30, 2016.

The following amendments are adopted.

ITEM 1. Amend subrule 80.31(1) as follows:

80.31(1) Definitions. For purposes of this rule, the following definitions shall govern.

“*Broadband*” means a high-speed, high-capacity electronic transmission medium, including fixed wireless and mobile wireless mediums, that can carry data signals from independent network sources by establishing different bandwidth channels and that is commonly used to deliver Internet services to the public.

“*Broadband infrastructure*” means the physical infrastructure used for the transmission of data that provides broadband services. “Broadband infrastructure” does not include land, buildings, structures, improvements, or equipment not directly used in the transmission of data via broadband.

“*Certified project*” means the installation of broadband infrastructure certified by the office of the chief information officer to serve a targeted service area.

“*Communications service provider*” means a service provider that provides broadband service.

“*Date of commencement*” means the date first occurring after July 1, 2015, and before July 1, 2020, in which broadband infrastructure used in a certified project becomes property taxed as real property as determined by Iowa Code section 427A.1.

“*Date of completion*” or “*completed*” means the date that ~~the entire targeted service area receives~~ a communications service provider offers or facilitates broadband service delivered at or above 25 megabits per second of download speed and 3 megabits per second of upload speed in a targeted service area.

“Installation of the broadband infrastructure” means the labor, construction, building, and furnishing of new physical infrastructure used for the transmission of data that provides broadband services. “Installation of the broadband infrastructure” does not include the process of removing existing infrastructure, fixtures, or other real property in preparation of installation of the broadband infrastructure.

“Targeted service area” means a U.S. Census Bureau census block located in this state, including any crop operation located within the census block, within which no communications service provider offers or facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed as of ~~June 22, 2015~~ July 1, 2015.

ITEM 2. Amend subparagraph **80.31(5)“b”(4)** as follows:

(4) Certification from the office of the chief information officer pursuant to Iowa Code section 8B.10 that the installation is being performed or was completed in a targeted service area, including whether or not the targeted service area designation is under appeal pursuant to rule 129—21.7(8B,427), and that it facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed.

ITEM 3. Amend paragraph **80.31(5)“d”** as follows:

d. Approval or denial of application. All applications shall be submitted to the department of revenue. The department shall forward applications for property subject to local assessment to the board of supervisors of the county in which the exempt property is located. The department shall retain the applications for centrally assessed property. The department and the board of supervisors, as applicable, shall notify an applicant of approval or denial of an application for exemption by March 1 of the assessment year in which the application was submitted. The notification shall include a notification of the applicant’s right to appeal. The board of supervisors shall forward all approved applications and any necessary information regarding the applications to the appropriate local assessor by March 1 of the assessment year in which the application was submitted.

Approval of an application involving a targeted service area that is under appeal pursuant to rule 129—21.7(8B,427) shall be contingent on the outcome of the appeal. In the event that an application is approved and the targeted service area designation subsequently is revoked upon appeal, the approved exemption shall also be revoked at that time.

[Filed 10/7/16, effective 11/30/16]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/26/16.